



North County Watch

Looking Out Today For Tomorrow

Delivered via email to:

Board of Supervisors
BoardOfSups@co.slo.ca.us

May 4, 2009

Board of Supervisors
County of San Luis Obispo
New County Government Center
1055 Monterey Street, Suite D-430
San Luis Obispo, CA 93408

Agenda Item C-3 Pehl Sand Mine Appeal

Chairman Gibson and Honorable Supervisors,

North County Watch requests that you deny this appeal by Mr. John Pehl and uphold the denial by the Planning Commission for a sand and gravel mine in the Salinas River watershed.

The Planning Commission correctly concluded that there is demonstrable evidence that this reach of the Salinas River is over permitted for extraction and further permitting and removal would cause serious harm to the environment and public property. A current draft study being prepared by another applicant would seem to make a case that each of the five reaches being studied are over permitted and there is need now for a river restoration plan.

There are other pending applications or gravel extraction in the vicinity of this site, and one lawsuit challenging the approval of a mine on the Estrella River, a tributary of the Salinas. NCW contends that the county has an obligation to consider the cumulative impacts that might be associated with all of the applications for sand mines. In *Gray v. County of Madera (Madera Ranch Quarry, Inc.)* (2008) , Cal.App.4th, the judge notes:

However, mere awareness of proposed expansion plans or other proposed development does not necessarily require the inclusion of those proposed projects in the EIR. Rather, these proposed projects must become "probable future projects." (CEQA Guidelines, § 15130(b)(1)(A).) As noted in *San Franciscans for Reasonable Growth v City & County of San Francisco* (1984) [151 Cal.App.3d 61](#), 74, "probable future projects" can be interpreted as reasonably probable future projects. The court found that projects that are undergoing environmental review are reasonably probable future projects. (*Ibid.*) We conclude that any future project where the applicant has devoted significant time and financial resources to prepare for any regulatory review should be considered as probable future projects for the purposes of cumulative impact.

We are attaching for the record a transcription of the comments made at the January 22, 2009 Planning Commission hearing on Pehl by Mr. Kit Custis, consulting Geomorphologist for California Department of Fish and Game,

We have attached our previous comments on this issue that present a comprehensive discussion of the numerous problems arising from the multiple applications and the finite limits of the resource. Please see our attached excerpt from a paper by K. Matthias Gandolf.

In addition to previous issues we have raised, we submit that consideration of the impacts of Green Houses Gases has never been analyzed in connection with these applications. Environmental Review must consider both the direct and indirect impacts of a project. See CEQA Guidelines §§ 15064(d), 15358(a). "Indirect or secondary effects . . . are caused by the project and are later in time or farther removed in distance, but are still reasonably foreseeable." CEQA Guidelines. § 15358(a)(2).

Environmental Review must disclose greenhouse gas emissions for all potential sources and also consider feasible mitigation measures to reduce those impacts. Previous environmental review of these projects failed to discuss greenhouse gasses at all. In a letter dated August 29, 2008, the Attorney General comments on the inadequacy of the Sacramento Draft General Plan:

Global warming is an "effect on the environment under CEQA, and an individual projects' incremental contribution to global warming can be cumulatively considered. (See Cal.Pub. Res. Code, sec. 21083.05, subbed. (a); Sen. Rules Comm., Off. Of Sen. Floor analyses of Sen. Bill No. 97 (2007-2008 Reg. Sess.) Aug. 22, 2007.)

We wish you to take administrative note that our previous comments and statements on sand mine applications become part of the record.

Thank you for your consideration of our comments.

Respectfully,

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Attachments:

1. NCW letter dated August 28, 2008 RE: Viborg Sand Mine application.
2. NCW comments dated January 21, 2009 prepared for the Planning Commission hearing on Pehl.
3. Excerpt from "Hungry Water: Effects of Dams and Gravel Mining on River Channels"

G. MATHIAS KONDOLF (<http://www.ced.berkeley.edu/ced/people/query.php?id=66/>)

"Hungry Water: Effects of Dams and Gravel Mining on River Channels"

ABSTRACT

Rivers transport sediment from eroding uplands to depositional areas near sea level. If the continuity of sediment transport is interrupted by dams or removal of sediment from the channel by gravel mining, the flow may become sediment-starved (hungry water) and prone to erode the channel bed and banks, producing channel incision (downcutting), coarsening of bed material, and loss of spawning gravels for salmon and trout (as smaller gravels are transported without replacement from upstream)...Damming and mining have reduced sediment delivery from rivers to many coastal areas, leading to accelerated beach erosion. Sand and gravel are mined for construction aggregate from river channel and floodplains. In-channel mining commonly causes incision, which may propagate up- and downstream of the mine, undermining bridges, inducing channel instability, and lowering alluvial water tables...Management of sand and gravel in rivers must be done on a regional basis, restoring the continuity of sediment transport where possible and encouraging alternatives to river-derived aggregate sources.